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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,378	03/26/2004	Peter M. Michalakos	H0003879-3138	3068

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Honeywell International, Inc.
Law Dept. AB2
P.O. Box 2245
Morristown, NJ 07962-9806

EXAMINER

MERKLING, MATTHEW J

ART UNIT	PAPER NUMBER
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1795

MAIL DATE	DELIVERY MODE
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03/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/811,378</p>	<p>Applicant(s) MICHALAKOS ET AL.</p>	
	<p>Examiner MATTHEW J. MERKLING</p>	<p>Art Unit 1795</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-19.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Alexa D. Neckel/
Supervisory Patent Examiner, Art Unit 1795

/M. J. M./
Examiner, Art Unit 1795

Continuation of 3. NOTE: Applicant's amended claim 6, which adds the limitation excluding Manganese and Nickel from the catalyst composition raises a new issue that will require further consideration and a new search.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant amended the independent claims to specifically exclude Manganese and Nickel from the catalyst composition. This amendment does not overcome the 35 USC §112 rejections presented in the final office action of 12/12/07. Even though Applicant amended the claims to include the above mentioned limitation, the Applicant still claims "wherein said catalytic composition is free of transition metal and compounds of transition metals selected from the group Mn (manganese) and Ni (nickel)". The 112 rejection mentioned the inconsistency, as interpreted by the examiner, of excluding all transition metal and then further claiming palladium (which is a transition metal) contained in the catalytic composition. It appears as though Applicant might be using the term "transition metal" to consist of only a single element as opposed to a compound containing a transition metal. However, the examiner does not interpret the claim in that way. Without further clarifying what is meant by the term "transition metal" the examiner will interpret the term "transition metal" as being any transition metal in groups 3-12 of the periodic table of the elements.

Furthermore, on page 10, paragraphs 1-4 of the response filed 2/12/08, Applicant argues that Wyatt does not anticipate claim 1 because in order for Wyatt to be anticipatory, Wyatt must show a composite catalytic material that not only includes silver and palladium, but also excludes manganese and nickel. The examiner agrees with this argument, however as stated in the final office action of 12/12/07, Wyatt does disclose a catalytic composition that excludes manganese and nickel. Line 32 of Wyatt lists catalytic compositions that include ONE or more of a series of metals. The fact that Wyatt discloses compositions that do not include manganese or nickel and include palladium and silver (for example, if the metal was chosen to be palladium and silver, both of which are listed in the acceptable metals), Wyatt does indeed anticipate claim 1 as presently claimed. See MPEP 2131.02 that states "A reference that clearly names the claimed species anticipates the claim no matter how many other species are named".